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TED KOPPEL: It is not nearly as well known as the CIA or the FBI, but the National Security Agency is the biggest intelligence organization run by the U.S. Government. And there is good reason why it is not as well known as some of the others. The activities of the NSA are so secret that even the original directive by President Harry Truman which established the agency, that directive is still classified.

We do know that one prime function of the NSA is monitoring international communications. Nightline correspondent James Walker tells us how it works.

JAMES WALKER: Every day Americans, private individuals and corporations, send or receive over one million international calls or cables. And every day the U.S. Government's National Security Agency is listening in and recording some of those communications. They do it in the name of national security. They don't get anyone's permission.

It's happened to actress Jane Fonda, to lawyer Abdin Jabara, to Billy Carter, and to former New York Times journalist Harrison Salisbury.

HARRISON SALISBURY: The NSA has almost all-inclusive power to surveil, through electronics or maybe other means, anyone in this country, and certainly any American citizen who's abroad. I just think it's universal. I don't think there's any limit to it.

WALKER: What is this NSA? Many Americans have never heard of it, but it is in fact the nation's largest and most secret intelligence agency, with a budget bigger than the CIA and

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FBI combined. It's headquartered here at Fort Meade, Maryland, halfway between Washington and Baltimore.

NSA acts like a sort of giant vacuum cleaner sweeping up all sorts of electronic communications from around the world.

While the CIA uses agents and analysts to gather what could be called human intelligence, NSA uses high-tech monitoring equipment and computers to gather so-called signal intelligence. They eavesdrop on the Kremlin, monitor Chinese troop movements, decode secret messages. They don't talk about their work, but in 1948 NSA cryptographers reportedly cracked a Soviet code that helped identify Ethel and Julius Rosenberg as spies. In 1962, before the Cuban missile crisis, NSA reportedly overheard Soviet missile experts in Havana. U-2 spy planes later confirmed that missiles were being installed.

The NSA has also been involved in domestic spying. In 1976 the Senate Intelligence Committee rebuked NSA for reading American telegrams for 30 years. As a result, Congress set up a special secret court that meets in the Justice Department and considers NSA requests for domestic spying. In its first three years, the court has received an increasing number of applications. Of 949 such requests, not one has been turned down.

But when it comes to international phone calls and messages to and from the United States, NSA doesn't ask for permission. How would NSA monitor your overseas phone call? It could work like this: Depending upon where you live, your overseas calls are handled by one of four earth stations operated by the Communications Satellite Corporation. The biggest and busiest earth station sits in the hills of Edam, West Virginia, population 20.

One reason it is here is that this is a so-called quiet zone. And that doesn't mean a special spot where you come to listen to the sounds of nature. A quiet zone is a place where by law there must be very little broadcast interference. That's why this is a perfect place to send and receive phone calls and other messages to and from the United States. That's also why this is a perfect area to listen in on those communications.

Your phone call travels by radio wave up 22,300 miles above the Atlantic Ocean to the Intelsat satellite, which passes it down to an earth station in Europe. Sixty miles from Edam, among the white pines of the George Washington National Forest, are other microwave dishes, also pointing toward the Intelsat satellite.

James Bamford, who has studied the NSA, says this is one

of their top secret listening posts, that the equipment can record overseas phone calls.

JAMES BAMFORD: They're obviously not interested in every single communication. But by entering a telephone number into a computer, they can isolate the particular telephone calls they're interested in.

When you're talking about digital communications, such as telegrams and telex, they can program a computer for individual words, such as Kuwait or Middle East or oil, dollars or yen.

WALKER: NSA doesn't initiate this monitoring. It selects out names and phone numbers targeted by federal agencies such as the CIA, FBI, or the Drug Enforcement Administration.

Journalist Salisbury thinks he was targeted because his assignments took him to communist countries.

SALISBURY: In Moscow I'd get my letters from the United States and I'd pick them up and they were all sealed with a great big heavy, coarse brown glue, which I'd never seen in the United States. So I knew they'd been opened by the KGB and carefully read, or something like that. But it never occurred to me that we had a sophisticated way of opening mail, too, and resealing it, and I didn't realize it was being done.

WALKER: NSA eavesdropped on Jane Fonda's overseas communications, apparently because of her criticism of the Vietnam War; on Billy Carter because of his business overtures to Libya when his brother was President; and on lawyer Abdin Jabara, an American-born citizen active in Arab causes.

Are you a spy?

ABDIN JABARA: No, I'm not a spy. I've never been a spy. I'm not a foreign agent. I've never been a foreign agent. I am purely a person who is involved in political activity in support of Palestinian rights. And because of that, I came under FBI surveillance and harassment, and NSA surveillance and harassment.

WALKER: Jabara, who has not been charged with any crime, sued the government after NSA intercepted six of his overseas telegrams. But in October a federal appeals court panel ruled that Jabara's constitutional rights were not violated, even when NSA passed along those telegrams to the FBI. He's appealing that decision.

JABARA: I feel that Americans have a right to engage in

their First Amendment activities unfettered by the thought that there's an FBI man behind every tree, that there's an NSA surveillance of their international communications without a warrant.

WALKER: What could be more important than our government's ability to obtain any information in order to protect the national interest of the United States?

SALISBURY: I happen to believe that we need an agency like the NSA, just as I believe we need an agency like the CIA. But I don't believe either of them should be what I would call rogue elephants and permitted to, simply because it's out there, simply because they have the technical ability to pick up every little click.

BAMFORD: I think NSA is probably the most important intelligence agency we have. The problem is to keep that technology pointed towards the Soviet Union and not have it turned towards the United States.

WALKER: We asked NSA officials to talk about their eavesdropping, but they said no. In fact, they never grant interviews.

So as it now stands, NSA has court permission to listen in on Americans' overseas phone calls and messages, and do it without first getting a judge's permission. And they also can pass the information around to the CIA, FBI, IRS, to the British, to any intelligence agency they choose. In other words, a court has now ruled that in phone calls overseas, America's national security is more important than an individual's right to privacy.

KOPPEL: When we return we'll talk live with two men who have been victims of electronic eavesdropping and didn't like it: former New York Times editor Harrison Salisbury and former National Security Council staffer Morton Halperin. We'll also talk with Senator Jake Garn of the Senate Intelligence Committee.

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KOPPEL: Joining us now live from our New York studios is former New York Times correspondent and editor Harrison Salisbury, a Pulitzer Prize-winner for his reporting from the Soviet Union. Mr. Salisbury discovered, under the Freedom of Information Act, that his phone calls and written messages had been monitored by the National Security Agency.

From our Washington Bureau, Morton Halperin, a former National Security aide in the Nixon Administration. Mr. Halperin brought suit against Mr. Nixon, Henry Kissinger, and other Nixon

aides for putting a wiretap on his phone for 21 months. Mr. Halperin now heads the Center for National Security Studies, a private organization which keeps a watch on U.S. intelligence agency activities.

And also here in Washington, Senator Jake Garn of Utah, a member of the Senate Intelligence Committee, which oversees activities in the U.S. intelligence community.

Senator Garn, from what you've heard so far, what defense would you make for an agency that seems, at least, to be violating the rights of privacy of many members of the American public?

SENATOR JAKE GARN: Well, Ted, I don't think it does. And I'm sorry. I think ABC's report tonight has given that impression, that we have an agency that was routinely monitoring American citizens all over the country and all over the world.

I've been a charter member of the Senate Intelligence Committee when it was first formed. Senator Birch Bayh was Chairman of the Rights of Americans Subcommittee and I was his Vice Chairman. We worked very closely on the legislation, the Foreign Intelligence Surveillance Act, creating the special court, requiring probable cause that a modified criminal statute may have been violated, warrants necessary to target American citizens within this country. And it was a very good piece of legislation worked out with Attorney General Levy and Attorney General Bell, through two Administrations, and has gotten high praises. Even the New York Times editorialized that it was a model piece of legislation. I think it has worked well.

Where they have not turned down any of the 900, that is because the standards which we wrote into the law are so strict that they don't even apply unless they think they have a chance.

KOPPEL: Let me interrupt for just a moment, Senator, because you said we spoke of it routinely violating the rights of Americans. Perhaps we did. If so, that may even have been wrong. But let's put that routinely aside.

Are the rights of American's violated when, indeed, information is kind of sucked out of the atmosphere on these microwave links and is done, in some instances, rather randomly?

SENATOR GARN: No, absolutely not. And let's forget the U.S. and the Foreign Intelligence Surveillance Act and go to the charges about overseas.

Mr. Salisbury was not targeted. And many others that have claimed that they were were not targeted as American citizens.

Yes, we do attempt to listen to foreign governments, particularly foreign governments that are not friendly to the United States. A man like Mr. Salisbury, a famous columnist and writer, certainly he is known to foreign governments. He could be discussed. And so sometimes you pick up information about American citizens when they were not the target at all, but simply were talked about by foreign governments. We cannot prevent that.

KOPPEL: All right. Let's...

SENATOR GARN: And when that happens -- let me say one other thing that's important, Ted.

In this law, for those cases, there is what is called a minimization procedure for distribution of those news and that information, and it is very, very tight. I'm sure Senator Bayh would agree with me. And those names are expunged. Billy Carter's was. That didn't come from NASA -- from NSA at all.

So there are procedures in this law that I think are very carefully designed to protect American citizens.

KOPPEL: I'd like to give Mr. Salisbury an opportunity to respond to what you've just said.

Is it possible, Mr. Salisbury, that your conversations were simply picked up because NSA was monitoring, and perhaps quite properly so, monitoring what a foreign government -- a conversation by one member of a foreign government?

SALISBURY: It seems to me that some of the things that they picked up could have been in that category. And I don't dispute what the Senator says about the care in the new regulations which were imposed.

But in my case, I have been a foreign correspondent over a long, long period of time, as the Senator knows, going back to -- well, to World War II, and the, specifically, in the Soviet Union and other communist countries beginning in 1949. This is a long time before the legislation of which he speaks was introduced, and it's a period of time in which my communications between myself and my newspaper, the cables which I sent to them, the instructions which they sent back to me, the private and confidential messages which I transmitted to them were being monitored by the NSA.

And as the Senator knows, in the case of newspaper correspondents, we have a special protection under the First Amendment, the freedom of the press clause, which is designed to serve the American public. It isn't designed to give me some

special guard. But if I am to do my job properly and bring back what is in essence, let's say, a more refined intelligence than the vacuum cleaner type, if I'm to write perceptively about Communist China or Bulgaria or the Soviet Union, I need privacy of my communications, particularly between myself and my newspaper, because these are very sensitive subjects and it's very easy for others to listen in on them, we don't know about the security that may occur, and all of a sudden sources will dry up and I will become really a rather useless branch on the tree of information.

And this is the sort of thing which I'm talking about and which I discovered totally by accident, under the Freedom of Information Act, when suddenly the FBI and the CIA, whom I'd requested to give me the files that they have on me, said, "Well, we can't give you this whole long list of matters because they were provided to us by the NSA." And this extends over a long period of years. I can't even tell by that long period of years exactly what's contained in those files.

KOPPEL: Let me go over to Morton Halperin for a moment.

And let me ask you, Mr. Halperin, to some extent, the NSA is almost hurt by its own secrecy. It's kind of easy for people to make broad sweeping charges about how stuff is vacuumed out of the air. We've just done it this evening. How do we know that that's right?

MORTON HALPERIN: Well, we do know that that's right, because the Senate Intelligence Committee made a report on NSA which described some of this. And a good deal of information has now come out in various lawsuits that have been brought against NSA, one that the ACLU brought on Mr. Salisbury's behalf, and others, the Mr. Jabara's case and others.

We do know how the NSA works. What NSA does is to use a vacuum cleaner approach. And that has been, in fact, described by the government in official documentation. They will, for example, take all the telex traffic or all the cable traffic moving, say, between the United States and Lebanon. All of that cable traffic would then be put into the NSA computer. And they would go in with various, then, key words. They might go in with oil or PLO or energy or some other designator, and then that would show up on their screens at NSA, or their teleprinters, all of the cables going through that channel that contained these words.

There's no dispute from official documents, from official releases by NSA that that's the way they work.

KOPPEL: Except that you cite the Senate Intelligence

Committee. And Senator Garn, who is on that committee, says 'tain't so.

Senator Garn?

HALPERIN: No. What he says is that if they get something that mentions an American, they have procedures which are secret -- and he may know about them; I don't -- in which they're supposed to minimize the acquisition of that.

The Foreign Intelligence Surveillance Act does simply not apply to those kinds of interceptions. It was carefully drafted so that the techniques that NSA uses to intercept communications where one of the stations is outside the United States are outside the definition of electronic surveillance in the act. And therefore none of the rules, none of the requirements for warrants, none of the minimization procedures apply to a conversation or a cable if one of the two points is outside the United States.

KOPPEL: Senator Garn?

SENATOR GARN: Ted, I've got to jump in on that, because Morton is not correct. Now, he was involved in a lot of discussions on this legislation, and I've heard comments from him in the past that he thought it worked well.

HALPERIN: I think it does.

SENATOR GARN: There is a difference in the United States and outside. The major difference is, is it does not require a warrant outside of the United States and to go to the seven-judge court.

KOPPEL: But when we're talking about -- I just want to clarify. Forgive me. When we're talking about outside the United States, if there is a conversation between here and Beirut, is that conversation considered to be outside the United States?

SENATOR GARN: It does not require a warrant. But there are lots of other rules and regulations. The minimization procedures do apply to information inadvertently picked up about American citizens in those foreign conversations.

KOPPEL: But when you say "inadvertently picked up," here we are talking about the technology. They are scooping gobs of information out of the atmosphere, and then it becomes a matter of processing it.

SENATOR GARN: They are not capable of even beginning to

indiscriminately monitor a majority of the conversations or to handle that information if they did. They are much more selective...

KOPPEL: I didn't say monitor. No, I didn't say monitor and I didn't say handle. I just said in order to first of all bring it in so you can run it through the computers, that is done more or less indiscriminately, is it not?

SENATOR GARN: No, it is not, Ted. That's what I'm trying to tell you. The vacuum cleaner really gives a bad impression. There is such a vast amount of information -- as you indicated, more than a million calls a day. NSA isn't big enough if we hired half the American population to monitor, to intercept indiscriminately that kind of information. Believe me, they try to be much more discriminating than that.

KOPPEL: Technically, can you pinpoint a single telephone conversation?

SENATOR GARN: Well, I'm not going to get into sources and methods and compromise what we're able to do. But Mr. Bamford, in his book "Puzzle Palace," and tonight Morton Halperin, are really minimizing these other rules and regulations. They're ignoring executive orders that have been there through several Administrations to protect American citizens. They're ignoring the oversight of the Intelligence Committee over the last six years. It is bipartisan. Both Republicans and Democrats, liberals and conservatives who monitor these agents, who know exactly the last six years where their budgets are, what they are spending, and that process has worked very well. And we are watching this, and certainly not allowing to happen what is going on. We very carefully monitor it.

We'll be holding some more hearings at the beginning of next year, as we routinely do, to protect the rights of American citizens.

HALPERIN: Could I comment on that?

SENATOR GARN: As I say, Birch Bayh and I were Chairman and Vice Chairman of the Subcommittee on Rights of Americans. I don't think anybody would accuse Birch Bayh of attempting to violate the rights of the Americans.

KOPPEL: Let me just interrupt for one second.

Mr. Salisbury and Mr. Halperin, we're just about out of time. We've really gone over our time. Take another 30 seconds each, if you would, and just summarize.

SALISBURY: I'd like to say this, that for many, many years I worked in communist countries where I was surveilled, where my messages were tapped, my room was tapped, and all that sort of thing. I always had one great argument to make to the Russians: that in the United States we had a free country, we had privileges of being free citizens. That didn't happen there.

I'm afraid that I was wrong in my argument. I hate to say that because I think that obliterates the difference, a lot of it, between the two systems.

KOPPEL: Mr. Halperin, a closing comment.

SENATOR GARN: ...30 years ago compared to the last six years. And if Americans really want to be afraid, what they ought to be aware of is what the Soviet Embassy and what Senator Pat Moynihan has tried to bring out many, many times, the calls that are really being indiscriminately listened to are right out of the Soviet Embassy in Washington, D.C. They have a massive effort to find out what we're saying.

HALPERIN: I think that is a real danger, and I hope the Senate does do something -- the Congress does do something about that.

The problem is that the regulations that Senator Garn refers to are secret. We have been trying to get the government to make them public. I understand that they are relatively precise. And I think it would be enormously important if they were made public. But the fact is that the government claimed in these cases the right to intercept and record and use the conversations and the telexes of Americans if they come into the NSA computer. And I think that power is far too great to leave it to secret directives and an oversight committee.

I think what we need to do is legislate very strict rules which essentially say that conversations in the cables of Americans are protected by the Fourth Amendment and they should not be used by the government without a warrant

KOPPEL: Gentlemen, thank you.